IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.5649 of 2004

Shri Maruti S. Bankhile — Applicant
Vs.
Smt. Meena Bankhile & ors. — Respondents

Ms.Veena Kamble i/b. Mr.Sandeep Velkar & Mr.Prosper D'Souza for applicant.
Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 20, 2007.

P.C.

. Heard the learned counsel for the applicant who is the husband of the present respondent no.1 - Smt. Meena. The respondent no.1 had filed a criminal complaint against the present appellant and other ten accused for the offences punishable under Sections 494, 108, 109 read with Section 34 of IPC as well as Section 17 of the Hindu Marriage Act. She had alleged in the said complaint that her marriage with the present applicant was solemnised on 11/5/1980. However, on or about 18/5/1991 the applicant married one Smt. Ratnabai Maruti Bankhile, daughter of Kashinath Krishnaji Gavade of village Gavdewadi, Pimpalmala, Tal. Ambegaon, Dist. Pune. After the statements of five witnesses were recorded before framing the charge, the applicant filed an

application for his discharge on two grounds viz. (a) that the evidence of all the five witness so recorded did not make out any prima facie case against the applicant and (b) the complaint filed before the learned Metropolitan Magistrate, 6th Court, Mazgaon was not maintainable and it ought to have been filed before the Court at Pune or in Pune District. This application came to be rejected by the learned Metropolitan Magistrate on 25/7/2003. The applicant, therefore, challenged the said order in Criminal Revision Application NO. 706 of 2003 which came to be dismissed by the learned Addl. Sessions Judge for Greater Mumbai vide his judgment and order dated 16/11/2004 and hence this application which has been pending for admission for the last about three years.

. On the first point, the learned Metropolitan Magistrate noted that on going through the evidence of PW Nos.1 to 5 and on perusal of the documentary evidence recorded on the file, he was satisfied that a case was made out for trial of the complaint. On the issue of jurisdiction it was noted by the learned Metropolitan Magistrate that the complainant was residing with his brother at Mumbai where the

complaint was filed and her parents were also staying with the brother. Both the Courts below have, therefore, held that the complainant while residing with her parents at Mumbai has filed the complaint before the learned Metropolitan Magistrate at Mumbai and, therefore, it could not be accepted that the Court at Mumbai did not have jurisdiction to entertain the complaint. The learned Addl. Sessions Judge has relied upon the judgment in the case of Bijan Nath vs. Smt. Basabi Nath **[2001 Cri.L.J. 4149]**, wherein it has been held that a wife who complains of bigamy and files a complaint at the place where she resides other than her marital home, can file complaint within the jurisdiction of the Court where she resides. The concurrent view taken by both the Courts below cannot be termed as perverse or grossly erroneous so as to cause interference in the same.

. The application is, therefore, rejected summarily.

(B.H.MARL